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RECENT CASES.

BASTARDY—EVIDENCE—BASTARD CHILD—RESEMBLANCE.—*Shailer v. Bullock*, 61 Atl. 65 (CONN.).—*Held*, that in a prosecution for bastardy, the alleged bastard child, ten months of age, was admissible in evidence to show a resemblance of features between it and defendant, alleged to have been its father.

Admissibility of child as evidence in such proceedings recognized in England without question. *Douglas Case*, 2 Harqt. Collect Jurid. 402. In United States weight of authority supports English ruling. *Gilmantan v. Haw.* 38 N. H. 108; *Scott v. Donovan*, 153 Mass. 378; *State v. Woodruff*, 67 N. C. 89. *Contra*: *Clark v. Bradstreet*, 80 Me. 454; *Hanawalt v. State*, 64 Wise 84. Main objection in such cases appears to be that child was too young to bear reliable resemblance. Some states admit child in evidence for such purpose only when it has attained some degree of maturity. Child two years and one month old admitted in *State v. Smith*, 54 Iowa, 104, but in same state child three months old not admitted. *State v. Danforth*, 48 Iowa 331. Rule is well established that a child is admissible as evidence to show face characteristics. *Danford v. Guy*, 23 Ark. 50; *Bryan v. Walton*, 20 Ga. 480; *Warlick v. White*, 76 N. C. 175. Where fact of resemblance has been regarded by the court as having probative value, the production of the child for the better apprehension of the resemblance has been treated as proper. *Wigmore on Evidence*, page 1349.

CARRIERS—EJECTION OF PASSENGER—PUNITIVE DAMAGES.—RICHARDSON V. ATLANTIC COAST LINE R. R., 51 S. E. 261. (S. C.).—Where a passenger buys a ticket to a station which the ticket agent tells him is on the main line, and, on changing cars is shown by a person in uniform a train for his destination, but after it starts is told by the conductor that it is a through train and will not stop, and is put off with only what force is necessary, on refusal to pay the additional fare to the next stopping point, and is again received on payment and carried to the station beyond—*Held*, he is entitled to damages. Woods. J. *Dissenting*.

Where a failure to have a proper ticket is the fault of the ticket agent passenger is under no duty to pay additional fare and thus avoid trouble. *Head v. Geo. Pac. Ry.*, 79 Ga. 358; *Murdock v. B. & A. R. R.*, 137 Mass. 293; *L. & N. R. R. v. Breckenridge*, 90 Ky. 1. That he is obliged to pay the additional fare. *Penn R. R. Co. v. Lenhart*, 120 Fed. 61 (Ill.); *Sprenger v. Tacoma R. Co.*, 15 Wash. 660; *Peabody v. O. R. & N. Co.*, 21 Or. 121. If passenger, under such circumstances, leaves the train he has the right to sue, but if he chooses to go on after ejection he cannot recover. *Lake Shore & M. C. Ry. v. Pierce*, 47 Mich. 277. Even if misinformed by ticket agent, if conductor correctly informs him before the train starts he would have no ground for action. *I. & G. N. Ry. Co. v. Hassell*, 62 Tex. 256. It is the duty of passengers to inquire of trainmen and of trainmen to warn passengers not to board or remain on the wrong train. *Bahm v. D. S. S. & Atl. Ry.*, 91 Wis. 592. In such a suit evidence must be admitted showing the passenger's good faith in riding according to the information given by the ticket agent.

Van Kirk v. Penn. Ry. Co., 76 Pa. St. 66. Conductor may rely on ticket and not be personally liable for ejection of passenger if only reasonable and necessary force is used. *Ill. Cent. v. Jackson*, 79 S. W. 1187 (Ky.). Passenger has the right to be carried according to the custom of the road, but cannot insist upon being carried otherwise. *Beauchamp v. I. & G. Ry. Co.*, 56 Tex. 239.

CONFLICT OF LAWS—MARRIED WOMAN'S CONTRACT—LEX LOCI CONTRACTUS—GARRIGUE ET AL. v. KELLER, 74 N. E. (IND.). 523.—*Held*, that a promissory note drawn and delivered in the state of a married woman's domicile and to be performed in another state is binding upon her as surety in the state where it is to be performed, although she would have been without capacity to make such a contract in that state.

It is the established rule that a contract void by the *Lex Loci Contractus* is void in the state of its performance. *Hager v. National German American Bank*, 105 Ga. 116; *Union Nat. Bank v. Chapman*, 169 N. Y. 538. But where as in this case capacity is given by the *Lex Loci Contractus* and denied by the *Lex Solutionis* some cases hold the other way. *United States v. Garling House*, 4 Ben. 194; *Phœnix Mutual Life Ins. Co. v. Simons*. 52 Mo. app. 385; *Voigt v. Brown*, 42 Hun 394; *Poison v. Stewart*, 167 Mass. 211. When the *Lex Loci Contractus* and the *Lex Solutionis* do not conflict the *Lex Loci Contractus* will prevail against the *Lex Domicilii*. *First National Bank v. Mitchell*, 92 Fed. 565; *Bowles & v. Field*, 78 Fed. 642. And even where the married woman does not leave the place of her domicile but contracts in another state through an agent or by mail the *Lex Loci Contractus* will prevail against the *Lex domicilii*. *First National Bank v. Freeman*, *Supra*; *Bell v. Packard*, 69 Me. 105; *Millikin v. Pratt*, 125 Mass. 374. But see *contra*. *Freeman's Appeal*, 68 Conn. 533. Parties may stipulate in regard to certain matters as to what law shall govern. *Depau v. Humphreys*, 20 Martin R. 1., but see *Van Schaike v. Edwards*, 2 Johns. Cas. 355.

CONSTITUTIONAL LAW—CHINESE EXCLUSION—CLAIM OF CITIZENSHIP.—UNITED STATES v. TU TOY, 25 Sp. Ct. 644.—*Held*, that the decision of the Secretary of Commerce and Labor affirming the denial by immigration officers of the right of a person of Chinese descent to enter the United States is conclusive on the Federal courts under the act of August 18, 1894.

This case, analogous to two earlier decisions must be considered good law. *United States v. Wong Kim Ark*, 169 U. S. 649; *Chin Bak Kan v. U. S.*, 185 U. S. 193. But see dissenting opinion by Mr. Justice Brewer and also *United States v. Gee Mun Sang*, 93 Fed. 365. *United States v. Sing Tuck*, 194 U. S. 161, does not decide the question. Where citizenship is not claimed the secretary's decision is final in all cases. See authorities cited and *In re Lee Gee Ling*, 85 Fed. 635. Congress may prescribe rules of evidence. *United States v. Williams*, 83 Fed. 997; *Fong Yue Ting v. United States*, 149 U. S. 698. Congress is subject to constitutional provisions against unreasonable seizures. *United States v. Wong Quong Wong*, 94 Fed. 832. Decision where favorable to the right of entry is not conclusive on the Federal courts. *In re Ki Sing*, 30 C. C. A. 451; *In re Li Foon*, 80 Fed. 881.

CONSTITUTIONAL LAW—INTERSTATE COMMERCE.—STATE v. DELAMETER, 104 N. W. 537 (S. D.).—*Held*, that the interstate commerce clause of the Fed-